

Writ C No. 41735 of 2024
(Vijay Kumar Dixit vs. Union of India and 7 others)

Neutral Citation No. - 2025:AHC:39398-DB

A.F.R.

Court No. - 40

Case :- WRIT - C No. - 41735 of 2024

Petitioner :- Vijay Kumar Dixit

Respondent :- Union Of India And 7 Others

Counsel for Petitioner :- Manoj Kumar Singh

Counsel for Respondent :- A.S.G.I., Nishant Mehrotra, Pranjali Mehrotra

Hon'ble Shekhar B. Saraf, J.

Hon'ble Kshitij Shailendra, J.

1. Heard Shri Shashi Nandan, learned Senior Counsel assisted by Shri Manoj Kumar Singh, Advocate for the petitioner and Shri Nishant Mehrotra, learned counsel for the respondent-Corporation.

2. This is a writ petition under Article 226 of the Constitution of India wherein the petitioner is aggrieved of by several orders dated 05.03.2024 (Annexure No. 13), 24/28.06.2022 (Annexure No. 10), 24.06.2022 (Annexure No. 8) and 16.02.2022 (Annexure No. 5) passed by the respondent-Corporation, wherein it has been claimed that excess payments of professional fees were made to the petitioner for services as an empanelled Advocate of the Corporation for the financial years 2017-18, 2018-19 and 2019-2020 amounting to Rs.17,16,767/- (rupees seventeen lac sixteen thousand seven hundred sixty seven). The orders impugned are based on a report formulated by a Committee that was constituted

by the office of the Food Corporation of India. It appears that this Committee carried out an inquiry and based on such inquiry, the impugned orders have been passed demanding the alleged excess payments made to the petitioner.

3. Mr. Shashi Nandan, learned Senior Advocate appearing for the petitioner submits that the entire procedure followed by the Authority is unknown in law and is a gross violation of principles of natural justice inasmuch as even no copy of inquiry report was ever served upon the petitioner nor was he allowed to participate in such inquiry. He further submits that in the guise of demanding excess payment, the Authority has cast a stigma on the petitioner, which would obviously be taken as a stand for termination of the empanellment of the petitioner at a later stage.

4. Per contra, Mr. Nishant Mehrotra, learned counsel appearing on behalf of Food Corporation of India submits that there is no provision in law for providing the inquiry report of the Committee to the petitioner as the same was an internal financial investigation carried out by the Committee. The purpose of the inquiry was to carry out audit of the payments being made to the lawyers and other persons. He relied upon the judgment of Hon'ble Supreme Court in **Improvement Trust, Ropar through its Chairman vs. S. Tejinder Singh Gujral and others**, 1995 Supp (4) Supreme Court Cases 577 and a Division Bench judgment of this Court in **K.N. Mishra vs. State of U.P. and others**, 2006 (4) ADJ 473 (All) (DB) to buttress his argument that writ petition by an Advocate for recovery of fees is not maintainable.

5. In this particular case, no counter affidavit has been called for by us as we find that the matter hinges the principles of natural justice qua inquiry, which fact was undisputed before us.

6. The record clearly shows that the inquiry report of the Committee was never provided to the petitioner as also stated by the petitioner in response to the notice issued to him subsequent to the inquiry. Furthermore, the petitioner was never put to show cause with regard to any of the excess payments of professional fees made to him prior to issue of demand notice. In fact the demand notices were in the nature of orders to deposit the amount in bank account of the Corporation. It is not in dispute that the petitioner was never a part of the inquiry.

7. Upon considering the various facts and circumstances of the case, we are of the view that any order that is passed by an Authority that has the flavour of stigma being cast upon a person is required to be carried out in a particular manner where there is a due process of law. Such process of law requires the person against whom such stigma is being cast to be granted an opportunity to place his case. The person should also be provided a copy of inquiry report, if any, and, thereafter, given a chance to submit his response to the same. The above ingredients are obviously missing in the present case.

8. Ergo, we are of the view that the Authorities had overstepped their limits by passing the impugned orders, which are definitely stigmatic in nature. Not only do the orders put a stigma on the petitioner but are also an attempt to deprive the petitioner of valuable compensation for services offered by him.

9. The issue as to when an action of an instrumentality of the State casts a stigma on a person, the principles of natural justice must be followed, is no *res-integra*. Such an issue normally comes before the courts in service matters. However, the principle remains the same in all actions undertaken by the instrumentality of the State. In this regard, we may refer to judgment of Hon'ble Supreme Court in **Prithipal Singh vs. State of Punjab and others, 2003 Supreme Court Cases (L&S) 103**, wherein a constable working in Punjab police as a temporary employee was discharged from service and the Hon'ble Supreme Court, having found the discharge order as stigmatic, annulled the decision of the employer on the ground that principles of natural justice were not followed and no opportunity of hearing was afforded to the constable before passing the discharge order. **State of Haryana and another vs. Jagdish Chander, (1995) 2 Supreme Court Cases 567** is also an authority on the same point. Recently, the Hon'ble Supreme Court in **U.P. State Road Transport Corporation & others vs. Brijesh Kumar & another, AIR 2024 SC 4424**, has held that determination of services of the employee on the ground of misconduct as alleged but without holding any regular inquiry or affording opportunity of hearing to him and simply based upon some report, copy whereof was not even supplied to the employee and no show cause notice having been issued to him, the termination was apparently stigmatic in nature, which could not have been done without following the principles of natural justice.

10. We do not need to join issue with the judgments cited by learned counsel appearing on behalf of the respondents as the principle therein is accepted by us that an Advocate cannot file a

writ petition for recovery of this professional fees. However, the present factual matrix of the case is completely different, wherein recovery is being sought by the client (F.C.I.) against the Advocate (petitioner) by way of setting off alleged excess payments against the payments that are due to be paid to the petitioner in future.

11. In light of above discussion, the impugned orders dated 05.03.2024 (Annexure No. 13), 24/28.06.2022 (Annexure No. 10), 24.06.2022 (Annexure No. 8) and 16.02.2022 (Annexure No. 5) by the respondent-Corporation cannot be sustained and are **quashed and set aside**.

12. Liberty is granted to the Food Corporation of India to proceed ***de-novo*** with the investigation against the petitioner, if it wishes to do so. However, the Corporation must comply with the principles of natural justice as enunciated above.

13. The writ petition stands **disposed of**.

Order Date :- 19.3.2025

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(Kshitij Shailendra,J.)

(Shekhar B. Saraf,J.)